

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

JOHN DOE,)
)
Plaintiff,)
)
v.)
)
THOMAS HACKER,)
BOY SCOUTS OF AMERICA, a congressionally)
chartered corporation, authorized to do business in Illinois,)
CHICAGO AREA COUNCIL, INC. BOY SCOUTS)
OF AMERICA, and)
CHICAGO AREA COUNCIL, BOY SCOUTS OF)
AMERICA, INC.,)
)
Defendants.)

COMPLAINT AT LAW

NOW COMES the plaintiff, JOHN DOE, by and through his attorneys in this regard, HURLEY McKENNA & MERTZ, and as his Complaint against defendants, THOMAS HACKER, BOY SCOUTS OF AMERICA, CHICAGO AREA COUNCIL, INC. BOY SCOUTS OF AMERICA, and CHICAGO AREA COUNCIL, BOY SCOUTS OF AMERICA, INC., he states as follows:

COUNT I – NEGLIGENCE–
THOMAS HACKER

1. Defendant THOMAS HACKER was, at various times material hereto, up to and including approximately 1988, an employee, servant, officer, volunteer, Scoutmaster, agent and/or apparent agent of co-defendant Boy Scouts of America (hereinafter BSA) and various Councils of the Boy Scouts of America.

2. Defendant HACKER was at various times material hereto, up to and including 1988, an employee, servant, officer, paid executive, volunteer, Scoutmaster, agent and/or apparent

agent of co-defendants CHICAGO AREA COUNCIL, INC. BOY SCOUTS OF AMERICA, CHICAGO AREA COUNCIL, BOY SCOUTS OF AMERICA, INC. (hereinafter collectively referred to as Chicago Area Council).

3. Defendant HACKER performed duties for BSA and the Chicago Area Council in various counties throughout Illinois, including Cook County.

4. In the early 1980s, through and including 1985, Plaintiff JOHN DOE was a minor residing in or near Burbank, Illinois.

5. In the early 1980s, through and including 1985, JOHN DOE, was enrolled in various Scouting organizations in Cook County, Illinois.

6. During his work with BSA and the Chicago Area Council, Defendant HACKER was a pedophile and sexual predator of adolescent and pre-adolescent boys. HACKER posed a constant threat to boys.

7. Plaintiff JOHN DOE was enrolled in the Cub Scouts and Boy Scouts for most of his childhood, through and including the year 1985.

8. For the purpose of furthering his duties as a BSA and Chicago Area Council Scoutmaster, HACKER sought and gained plaintiff's trust, friendship, admiration and obedience. As a result, Plaintiff was conditioned to comply with HACKER'S direction and to look to him as an authority figure.

9. Using his role as a BSA and Chicago Area Council Scoutmaster as his entree, in 1985, HACKER began to molest JOHN DOE on routine occasions during, before, or after various Scouting activities.

10. Using the power, authority and trust of his positions as a BSA and Chicago Area Council Scoutmaster, and availing himself of co-defendants' representations to

parents and scouts that the BSA was a moral and safe place for boys, HACKER enticed, induced, directed, coerced, and forced Plaintiff to engage in deviant sexual acts with him during the year 1985.

11. As the direct supervisor, scout leader, and mentor of the Plaintiff, HACKER owed a duty to refrain from partaking in any inappropriate conduct with the Plaintiff. Scout leaders are in a unique position to provide competent, safe, and morally grounded supervision to vulnerable and easily influenced boys and young men. As such, HACKER owed a duty to refrain from inappropriate physical touching of the Plaintiff.

12. Defendant HACKER was negligent in one or more of the following ways:

- a. Was routinely alone with Plaintiff for hours;
- b. Used his BSA position to spend time alone with Plaintiff for the purpose of sexually abusing him;
- c. Engaged in oral sex with the Plaintiff during the Plaintiff's minority; and
- d. Sexually abused the Plaintiff.

13. As a direct and proximate result of the aforementioned actions by the Defendant, Plaintiff has suffered permanent injuries of a personal and pecuniary nature, and has been psychologically damaged and continues to be damaged psychologically and to experience mental anguish, humiliation and emotional and physical pain suffering and distress.

Further, as a result of the aforementioned sexual abuse and breach of trust, Plaintiff has suffered and will continue to suffer physical and emotional pain and dysfunction, and both economic and noneconomic damages in an amount to be proved at trial.

14. Because this abuse occurred when Plaintiff was approximately 10 years old, Plaintiff suppressed the memories of this abuse.

15. It was not until October of 2012 – when the release of Ineligible Volunteer Files became widely publicized – that Plaintiff discovered that he was repressing the memories of his abuse, discovered his injuries, and became aware of his cause of action against Defendants.

WHEREFORE, Plaintiff, JOHN DOE, by and through Plaintiff's attorneys, HURLEY McKENNA & MERTZ pray for damages against defendant THOMAS HACKER in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

COUNT II – CIVIL BATTERY–
THOMAS HACKER

1-11. Plaintiff reasserts and re-alleges paragraphs 1 through 11 of Count I of this Complaint at law as and for paragraphs 1 through 11 of Count II of this Complaint at Law.

12. Defendant HACKER routinely spent time alone with Plaintiff.

13. Defendant HACKER intentionally made both physical and sexual contact with Plaintiff in 1985.

14. During that year, and following the initial encounter, Defendant HACKER repeatedly and intentionally made physical and sexual contact and advances on the Plaintiff.

15. All physical and sexual advances and contact initiated by HACKER were unwanted, unwelcomed, harmful, and damaging to Plaintiff John Doe.

16. Defendant HACKER knew or should have known that his intentional advances were unwanted, unwelcomed, harmful, and/or damaging to Plaintiff.

17. Defendant HACKER knew or should have known that his intentional physical contact with the Plaintiff was unwanted, unwelcomed, harmful, and damaging.

18. Defendant HACKER knew or should have known that his intentional sexual contact with the Plaintiff was unwanted, unwelcomed, harmful, and/or damaging to the Plaintiff.

19. Defendant HACKER sexually and physically battered Plaintiff beginning 1985.

20. Defendant HACKER sexually and physically battered Plaintiff repeatedly during the year 1985.

21. Defendant HACKER knew or should have known that his intentional physical and sexual contact with the Plaintiff would cause both permanent emotional harm and permanent physical harm to Plaintiff.

22. All physical and sexual contact made by HACKER was done without the consent of Plaintiff, who was a minor at the time.

23. As a direct and proximate result of the aforementioned actions by the defendants, Plaintiff has suffered permanent injuries of a personal and pecuniary nature, and has been psychologically damaged and continues to be damaged psychologically and to experience mental anguish, humiliation and emotional and physical distress. Further, as a result of the aforementioned sexual abuse and breach of trust, Plaintiff has suffered and will continue to suffer physical and emotional pain and dysfunction, and both economic and non-economic damages in an amount to be proved at trial.

24. Because this abuse occurred when Plaintiff was approximately 10 years old, Plaintiff suppressed the memories of this abuse.

25. It was not until October of 2012 – when the release of Ineligible Volunteer Files became widely publicized – that Plaintiff discovered that he was repressing the memories of his abuse, discovered his injuries, and became aware of his cause of action against Defendants.

WHEREFORE, Plaintiff JOHN DOE, by and through Plaintiff's attorneys, HURLEY McKENNA & MERTZ, pray for damages against defendant THOMAS HACKER in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

COUNT III – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS–
THOMAS HACKER

1-22. Plaintiff reasserts and realleges paragraphs 1 through 22 of Count II of Plaintiff's Complaint as and for paragraphs 1 through 22 of Count III of Plaintiff's Complaint.

23. Defendant's sexual abuse of Plaintiff constitutes extreme and outrageous conduct.

24. Defendant knew or should have known that there was a high probability that the sexual molestation of a minor child would result in emotional distress to said minor.

25. As a direct and proximate result of the aforementioned actions by the defendants, Plaintiff has suffered permanent injuries of a personal and pecuniary nature, and has been psychologically damaged and continues to be damaged psychologically and to experience mental anguish, humiliation and emotional and physical distress.

Further, as a result of the aforementioned sexual abuse and breach of trust, Plaintiff has suffered and will continue to suffer physical and emotional pain and dysfunction, and both economic and non-economic damages in an amount to be proved at trial.

26. Because this abuse occurred when Plaintiff was approximately 10 years old, Plaintiff suppressed the memories of this abuse.

27. It was not until October of 2012 – when the release of Ineligible Volunteer Files became widely publicized – that Plaintiff discovered that he was repressing the memories of his abuse, discovered his injuries, and became aware of his cause of action against Defendants.

WHEREFORE, Plaintiff JOHN DOE, a minor, by and through Plaintiff's attorneys, HURLEY McKENNA & MERTZ, prays for damages against defendant THOMAS HACKER in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

COUNT IV – NEGLIGENCE–
BOY SCOUTS OF AMERICA

1. The BOY SCOUTS OF AMERICA (hereinafter "BSA") is the largest youth organization in the United States with approximately five million members. BSA was chartered in 1910 by an act of Congress. An estimated 20% of American boys have had contact with scouting either as members or by attending Scout functions.

2. Throughout its one hundred and two year history, the BSA has consistently held itself out to the public as a "moral and safe" environment for boys to participate in healthy outdoor activities and to be given proper guidance and instruction. Millions of parents and scouts have placed their trust in the BSA.

3. Paradoxically, the BSA promotes the wholesomeness of its programs while knowing that since the 1940s it has been secretly removing scoutmasters for child sexual abuse at an alarming rate, which in the 1970s, reached an average of one every three days. Its own records demonstrate that it has long known that Scouting attracts pedophiles in large numbers and that scouts, far from being safe, are at heightened risk of sexual abuse by child molesters.

4. Defendant, BOY SCOUTS OF AMERICA is a congressionally chartered corporation, authorized to do business in Illinois.

5. Co-Defendant, Chicago Area Council is an Illinois not-for-profit corporation that organizes Scouting events and maintains scouting troops in Cook County. The Chicago Area Council headquarters is located in the City of Chicago in Cook County, Illinois.

6. Since approximately 1919, BOY SCOUTS OF AMERICA has maintained a group of files known as the red files, perversion files, or ineligible volunteer files.

7. The claimed purpose of the BOY SCOUTS OF AMERICA'S maintenance of the files is to keep sexual predators out of Scouting.

8. On and prior to February 26, 1970, Thomas Hacker served as a Scoutmaster in the Central Indiana Council of the BOY SCOUTS OF AMERICA.

9. On or shortly after February 26, 1970, Earl L. Krall, Director of Registration and Fulfillment Service for the BOY SCOUTS OF AMERICA, received correspondence from the Central Indiana Council pertaining to Thomas Hacker.

10. The correspondence indicated that Mr. Hacker was charged with assault and battery to gratify sexual desires and included a newspaper article which outlined further charges brought against Thomas Hacker.

11. On March 18, 1970, Earl Krall responded to the Central Indiana Council's correspondence, acknowledging receipt of the correspondence regarding Mr. Hacker.

12. The March 18, 1970 letter requested the Central Indiana Council fill out and return confidential record sheets that would enable BOY SCOUTS OF AMERICA to identify Mr. Hacker if he attempted to register in the future.

14. The Central Indiana Council completed a "Confidential Record Sheet" on or about June 8, 1970.

15. The Central Indiana Council returned the "Confidential Record Sheet" to the BOY SCOUTS OF AMERICA.

16. The "Confidential Record Sheet" indicates that Mr. Hacker was "arrested for homosexual activity with many boys both in Scouting and through the school in which he was teaching."

17. The "Confidential Record Sheet" indicates that Mr. Hacker's trial was to be conducted in August of 1970.

18. As of February 1970, the BOY SCOUTS OF AMERICA knew or should have known that Thomas Hacker should not have access to children and should not be permitted to participate in Scouting in anyway whatsoever.

19. On and prior to October 27, 1971, Thomas Hacker served as a Scoutmaster with the Northwest Suburban Council of the BOY SCOUTS OF AMERICA.

20. On or shortly after October 27, 1971, Paul Ernst, Director of Registration and Membership for the BOY SCOUTS OF AMERICA, received correspondence from the Northwest Suburban Council of the BOY SCOUTS OF AMERICA pertaining to Thomas Hacker.

21. The correspondence from Northwest Suburban Council of the Boy Scouts of America to Boy Scouts of America indicated that Mr. Hacker was arrested on charges of taking indecent liberties with a child.

22. The correspondence from Northwest Suburban Council of the BOY SCOUTS OF AMERICA enclosed a newspaper clipping outlining the charges against Thomas Hacker.

23. The correspondence also indicated that the Council learned that Mr. Hacker was active in Scouting in Central Indiana.

24. On November 2, 1971, Paul Ernst acknowledged receipt of the letter from Northwest Suburban Council of the BOY SCOUTS OF AMERICA and wrote back to the Council.

25. In his November 2, 1971 letter, Paul Ernst indicated that “under no circumstances do we want [Mr. Hacker] registered in Scouting.”

26. BOY SCOUTS OF AMERICA was, again, warned of the dangers posed to children by Thomas Hacker via the October 27, 1971 letter from the Northwest Suburban Council of the BOY SCOUTS OF AMERICA.

27. Despite being an “Ineligible Volunteer” since approximately February of 1970, Thomas Hacker was permitted to register and participate in Scouting through the Chicago Area Council of the BOY SCOUTS OF AMERICA.

28. Mr. Hacker became active in the Chicago Area Council beginning in approximately 1983 or 1984.

29. BOY SCOUTS OF AMERICA did not conduct a background check on Mr. Hacker at the time he registered with the Chicago Area Council.

30. If BOY SCOUTS OF AMERICA had conducted a background check upon Hacker’s registration, the background check would have confirmed a felony conviction in approximately 1970 on charges involving sexual abuse and/or assault.

31. Beginning in 1983 or 1984, Mr. Hacker served as Committee Chairman and Scoutmaster with the Chicago Area Council of the BOY SCOUTS OF AMERICA.

32. Through his position with the Chicago Area Council, Mr. Hacker gained access to many young boys and began molesting children within the Council.

33. Mr. Hacker met and gained access to Plaintiff John Doe through Hacker’s role as Scoutmaster with the Chicago Area Council.

34. Defendant Hacker was, at various times material hereto, an employee, servant, volunteer, Scoutmaster, agent and/or apparent agent of Defendant BOY SCOUTS OF AMERICA.

35. Mr. Hacker sexually assaulted Plaintiff John Doe on repeated occasions beginning in approximately 1985.

36. In February of 1988, Thomas Hacker was arrested and charged with five counts of aggravated criminal sexual assault against three scouts.

37. On April 15, 1988, The Illinois Department of Children and Family Services informed the BOY SCOUTS OF AMERICA that at least 34 individuals were victims of child abuse at the hands of Thomas Hacker.

38. Prior to Mr. Hacker's 1988 arrest, and prior to his 1985 abuse of Plaintiff, BSA knew for decades that sexual predators of boys had infiltrated Scouting. BSA knew or should have known the danger that pedophiles presented to boy scouts and either knew or should have known the danger that Hacker presented, but instead BSA ignored that danger and permitted Hacker and other pedophiles in scouting to prey upon young boys, including Plaintiff.

39. BSA's own internal "Ineligible Volunteer Files" records it collected and maintained in secrecy for seventy years, reveal that Scouting is a pedophile "magnet" and that removed pedophiles were often able to re-enter scouting in other locations. These files were maintained concerning paid executives as well as "volunteers."

40. BSA was aware that Scouting attracted pedophiles and that the distinct characteristics of scouting render scouts particularly susceptible to pedophiles.

41. BSA's "Ineligible Volunteer Files" contained a file for Mr. Hacker opened in 1970, yet he was able and permitted to register with the Chicago Area Council in the 1980s and was able to participate in Scouting.

42. BSA knew or should have known that Scouting attracts pedophiles, in part, because: a) Scouting provides the pedophile access to boys alone and away from their parents in secluded settings like camp-outs and overnight hikes; b) Scouting provides opportunities for the pedophile to seduce a boy by getting him in situations where the boy has to change clothing or spend the night with him; c) the pedophile scout leader can, depending on the pedophile's age preference, volunteer for and be sure to have access only to boys of a certain age; d) BSA

conditions boys to the concept of strict obedience to the Scout Leader, a bonding mechanism that pedophiles crave; e) BSA promotes the idea of secret ceremonies, rituals and loyalty oaths, all of which help facilitate the pedophile's efforts to keep his victims silent and compliant; f) At the time of the abuse, BSA conducted no criminal background checks on Hacker.

43. BSA knew or should have known that its "ineligible volunteers" system of keeping track of pedophiles infiltrating its ranks and attempting to eliminate them did not function as it was intended, was flawed, and in many cases ineffective. Despite that knowledge, BSA did nothing to educate its Scouts and their parents of the ineffectiveness of the screening and tracking system and process. BSA did nothing to educate or inform Scouts and their parents of the enormity of the pedophile problem, nor did BSA take action to correct its screening and/or education system.

44. At all times, Hacker was under certain direction, supervision and control of Defendant BSA and was otherwise its employee, servant, volunteer, Scoutmaster, agent and/or apparent agent.

45. At all times, co-defendant Chicago Area Council was under the direction, supervision, and control of Defendant BSA and was otherwise its servant, agent and/or apparent agent.

46. Hacker's work and duties for defendants BSA and Chicago Area Council included duties and activities in Cook County, Illinois.

47. Prior to 1985, BSA ignored repeated warnings that Hacker was a pedophile.

48. Using the power, authority, and trust of his positions as a BSA leader and availing himself of Defendants' representations to parents and scouts that the BSA was a moral and safe place for boys, Hacker enticed, induced, directed, coerced, and forced Plaintiff to engage in deviant sexual acts with him during the year 1985.

49. Based upon BSA's knowledge of previous incidents involving pedophiles and its knowledge and information regarding pedophiles within its organization, BSA could reasonably foresee future incidents involving pedophile Scout leaders, volunteers, employees, agents, and/or apparent agents, including Hacker.

50. Defendant BSA owed a duty to Plaintiff to prevent known child molesters from serving as Scout leaders with access to children.

51. Defendant, BSA was negligent in the manner that it screened, supervised, retained as a volunteer, and allowed Hacker to register as an adult volunteer, when BSA knew or should have known that Hacker posed a threat of sexual abuse to children, and was negligent in one or more of the following ways:

- a. Allowed Hacker to routinely be alone with Plaintiff for hours;
- b. Failed to conduct a background check on Hacker when he registered with the Chicago Area Council;
- c. Failed to timely adopt policies and procedures to protect children;
- d. Failed to advise parents of statistical data available to BSA from the Ineligible Volunteer Files;
- e. Failed to advise parents that the Ineligible Volunteer File system of ejection of paid executives and volunteers, as the primary method of protecting Scouts from pedophiles, was ineffective;
- f. Carelessly or negligently maintained, reviewed, and updated the Ineligible Volunteer Files;
- g. Carelessly or negligently warned and/or failed to warn parents of information regarding adult Scoutmasters and their propensity to engage in inappropriate behavior with Scouts;
- h. Carelessly and/or negligently failed to communicate information regarding Scoutmasters, employees, volunteers, agents, and/or apparent agents to its operative branches throughout the United States;
- i. Allowed Hacker to register with the Chicago Area Council despite his

history of child abuse and despite previously classifying him as an ineligible volunteer;

- j. Allowed Hacker to continue in his position as Scoutmaster;
- k. Allowed Hacker to continue as a Scouting volunteer;
- l. Failed to require its local councils to submit names of leaders, volunteers and employees for cross-checking with the Ineligible Volunteer Files;
- m. Upon learning of Thomas Hacker's criminal acts from the Central Indiana Council, failed to obtain sufficient information to properly document Hacker within the Ineligible Volunteer Files and bar him from further activities with Scouting;
- n. Upon learning of Thomas Hacker's criminal acts from the Northwest Suburban Council of the BOY SCOUTS OF AMERICA, failed to obtain sufficient information to properly document Hacker within the Ineligible Volunteer Files and bar him from further activities with Scouting;
- o. Was otherwise careless and/or negligent.

52. As a direct and proximate result of the aforementioned actions by the Defendant, Plaintiff has suffered permanent injuries of a personal and pecuniary nature, and has been psychologically damaged and continues to be damaged psychologically and to experience mental anguish, humiliation and emotional and physical pain, suffering and distress.

Further, as a result of the aforementioned sexual abuse and breach of trust, Plaintiff has suffered and will continue to suffer physical and emotional pain and dysfunction, and both economic and non-economic damages in an amount to be proved at trial.

53. Because this abuse occurred when Plaintiff was approximately 10 years old, Plaintiff suppressed the memories of this abuse.

54. It was not until October of 2012 – when the release of Ineligible Volunteer Files became widely publicized – that Plaintiff discovered that he was repressing the memories of his abuse, discovered his injuries, and became aware of his cause of action against Defendants.

55. **Fraudulent misrepresentation, concealment, and non-disclosure of predatory scout leaders, including Thomas Hacker:** The BOY SCOUTS OF AMERICA, through its employees, scout executives, scout leaders, agents, officials, attorneys, and members of the Registration Department, had actual knowledge that Thomas Hacker was a predator and pedophile, beginning in approximately March of 1970, through and including the present.

56. The BOY SCOUTS OF AMERICA, through its employees, scout executives, scout leaders, agents, officials, attorneys, and members of the Registration Department, had actual or constructive knowledge that Thomas Hacker sexually molested Plaintiff and other children in the mid-1980s.

57. Armed with the above knowledge, the BOY SCOUTS OF AMERICA hid the information from its scouts and parents of scouts, including Plaintiff and his mother, from the time of the assaults up to and including the present.

58. After the BOY SCOUTS OF AMERICA learned that Thomas Hacker molested Chicago Area Council scouts, the BOY SCOUTS OF AMERICA concealed the fact, in the 1970s, it had previously identified Thomas Hacker as child molester and/or abuser but still allowed him to register with the Chicago Area Council.

59. Ken Walters, a director of finance and support services for Chicago Area Council of the BOY SCOUTS OF AMERICA, actively concealed the fact that Thomas Hacker's name was found within the Ineligible Volunteer Files long before the assaults that began in the mid-1980s.

60. Ken Walters was quoted in the Chicago tribune as stating that "Obviously he's (referring to Thomas Hacker) not on that system...it would have come up."

61. Likewise, Barclay Bollas, a spokesman for the BOY SCOUTS OF AMERICA, actively concealed the fact that Thomas Hacker's name was found within the Ineligible Volunteer Files long before the assaults that began in the mid-1980s.

62. In response to an inquiry after Hacker's arrest, as to whether Thomas Hacker was found within the Ineligible Volunteer Files, Barclay Bollas stated "we consider that list confidential."

63. In each of the years between at least 1971 and the date of the filing of this complaint, the BOY SCOUTS OF AMERICA has misrepresented and under-reported the true nature and number of predatory and pedophile scout leaders that have served BOY SCOUTS OF AMERICA and its local councils.

64. The BOY SCOUTS OF AMERICA has had and presently do have a financial incentive to misrepresent and hide the true nature and scope of this problem of predatory and pedophile leaders, more particularly described below.

65. For years, BOY SCOUTS OF AMERICA have carefully protected the Ineligible Volunteer Files and repeatedly tried to prevent lawyers representing victims from obtaining and accessing those files.

66. Defendant BOY SCOUTS OF AMERICA actively misrepresented and concealed the fact that Thomas Hacker was a known pedophile at the time of his registration with the Chicago Area Council.

67. If Defendant and its agents had not misrepresented or concealed the true nature of predatory and pedophile leaders in BOY SCOUTS OF AMERICA and had not specifically concealed their knowledge of Thomas Hacker, Plaintiff would have discovered earlier, and within the limitation period (whatever that may be held to in this case); and therefore would have

filed his cause of action (a) before his 18th birthday; and (b) in less than 2 years after of his 18th birthday; or (c) earlier than he did without the aid of any applicable Discovery Rule.

68. Because of the Defendant's misrepresentation and concealment, Plaintiff (a) was unaware of his claim when he turned 18; (b) did not know the BOY SCOUTS OF AMERICA had done something wrong at any time, and because of the misrepresentation and concealment of the BOY SCOUTS OF AMERICA, was otherwise not aware of his injury or the cause of his injury.

69. **Detrimental Reliance:** Before, during and after 1985, Plaintiff and his parents detrimentally relied on the false statements and non-disclosures of the BOY SCOUTS OF AMERICA about predatory and pedophile leaders, including Thomas Hacker, serving the BOY SCOUTS OF AMERICA and Chicago Area Council.

70. If the parents of Plaintiff were informed by Defendant prior to 1985 that the BOY SCOUTS OF AMERICA knew or reasonably should have known at that time about pedophile leaders working or volunteering for and/or on behalf of the Defendant, they would not have permitted Plaintiff, their then minor son, to join or participate in the BOY SCOUTS OF AMERICA.

71. **The BOY SCOUTS OF AMERICA had a financial incentive to withhold facts about predatory and pedophile leaders:** If the BOY SCOUTS OF AMERICA were to disclose the true extent of predatory pedophile leaders described above, collected in the Ineligible Volunteer Files, described above, the membership in BOY SCOUTS OF AMERICA would drop substantially and the fees collected from said membership would significantly diminish.

72. Similarly, given the BOY SCOUTS OF AMERICA specific knowledge that Thomas Hacker posed a threat to Scouts but was allowed to participate in Scouting, any disclosure of that information at the time of the 1988 arrest would likely have subjected BOY SCOUTS OF AMERICA to substantial liability.

73. Accordingly, instead of disclosing said information and knowledge to parents, following Hacker's arrest, BOY SCOUTS OF AMERICA concealed and hid the information.

74. At no time before prior to the disclosure of the Ineligible Volunteer Files in October of 2012, did Plaintiff know, nor reasonably should have known that he was injured in any way, or that he had been the victim of any wrongful conduct, on the part of Defendant BOY SCOUTS OF AMERICA.

75. **Equitable Estoppel:** First, as more particularly described above, the BOY SCOUTS OF AMERICA misrepresented and concealed material facts about the true nature of predatory and pedophile leaders within the BOY SCOUTS OF AMERICA.

76. Second, the BOY SCOUTS OF AMERICA knew at the time the representations were made, and when the concealment occurred, that they were untrue.

77. Third, at no time did Plaintiff know that the representations made by the BOY SCOUTS OF AMERICA were untrue.

78. Fourth, the BOY SCOUTS OF AMERICA intended and expected the representation to be acted upon by Plaintiff, an abused person, and his parents and by other victims of sexual abuse by a scout leader.

79. Fifth, Plaintiff and his parents reasonably relied upon the representations of the BOY SCOUTS OF AMERICA in good faith and to their detriment.

80. Sixth, Plaintiff has been prejudiced by his reliance on the representations of the BOY SCOUTS OF AMERICA and fraudulent misrepresentation of the BOY SCOUTS OF AMERICA described above.

81. As a result, the BOY SCOUTS OF AMERICA should be equitably estopped from asserting any statute of limitation defense.

WHEREFORE, Plaintiff JOHN DOE by and through Plaintiff's attorneys, HURLEY McKENNA & MERTZ, pray for damages against Defendant BOY SCOUTS OF AMERICA in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

COUNT V – NEGLIGENCE–
CHICAGO AREA COUNCIL, INC. BOY SCOUTS OF AMERICA and CHICAGO
AREA COUNCIL, BOY SCOUTS OF AMERICA, INC.

1. The BOY SCOUTS OF AMERICA (hereinafter "BSA") is the largest youth organization in the United States with approximately five million members. BSA was chartered in 1910 by an act of Congress. An estimated 20% of American boys have had contact with scouting either as members or by attending Scout functions.

2. Throughout its one hundred and two year history, the BSA has consistently held itself out to the public as a "moral and safe" environment for boys to participate in healthy outdoor activities and to be given proper guidance and instruction. Millions of parents and scouts have placed their trust in the BSA.

3. Paradoxically, the BSA promotes the wholesomeness of its programs while knowing that since the 1940s it has been secretly removing scoutmasters for child sexual abuse at an alarming rate, which in the 1970s, reached an average of one every three days. Its own records demonstrate that it has long known that scouting attracts pedophiles in large numbers and that scouts, far from being safe, are at heightened risk of sexual abuse by child molesters.

4. Defendants CHICAGO AREA COUNCIL, INC. BOY SCOUTS OF AMERICA and CHICAGO AREA COUNCIL, BOY SCOUTS OF AMERICA, INC. (hereinafter Chicago Area Council) is an Illinois not-for-profit corporation that organizes scouting events and maintains Scouting troops in Cook County. The CHICAGO AREA COUNCIL headquarters is located in the City of Chicago in Cook County, Illinois.

5. Defendant CHICAGO AREA COUNCIL is a local council of co-defendant BOY SCOUTS OF AMERICA.

6. Since approximately 1919, BOY SCOUTS OF AMERICA has maintained a group of files known as the red files, perversion files, or ineligible volunteer files.

7. The claimed purpose of the BOY SCOUTS OF AMERICA'S maintenance of the files is to keep sexual predators out of scouting.

8. On and prior to February 26, 1970, Thomas Hacker served as a Scoutmaster in the Central Indiana Council of the BOY SCOUTS OF AMERICA.

9. On or shortly after February 26, 1970, Earl L. Krall, Director of Registration and Fulfillment Service for the BOY SCOUTS OF AMERICA, received correspondence from the Central Indiana Council pertaining to Thomas Hacker.

10. The correspondence indicated that Mr. Hacker was charged with assault and battery to gratify sexual desires and included a newspaper article which outlined further charges brought against Thomas Hacker.

11. On March 18, 1970, Earl Krall responded to the Central Indiana Council's correspondence, acknowledging receipt of the correspondence regarding Mr. Hacker.

12. The March 18, 1970 letter requested the Indiana Council fill out and return confidential record sheets that would enable BOY SCOUTS OF AMERICA to identify Mr. Hacker if he attempted to register in the future.

14. The Central Indiana Council completed a “Confidential Record Sheet” on or about June 8, 1970.

15. The Central Indiana Council returned the “Confidential Record Sheet” to the BOY SCOUTS OF AMERICA.

16. The “Confidential Record Sheet” indicates that Mr. Hacker was “arrested for homosexual activity with many boys both in Scouting and through the school in which he was teaching.”

17. The “Confidential Record Sheet” indicates that Mr. Hacker’s trial was to be conducted in August of 1970.

18. As of February 1970, the BOY SCOUTS OF AMERICA knew or should have known that Thomas Hacker should not have access to children and should not be permitted to participate in Scouting in anyway whatsoever.

19. On and prior to October 27, 1971, Thomas Hacker served as a Scoutmaster with the Northwest Suburban Council of the BOY SCOUTS OF AMERICA.

20. On or shortly after October 27, 1971, Paul Ernst, Director of Registration and Membership for the BOY SCOUTS OF AMERICA, received correspondence from the Northwest Suburban Council of the BOY SCOUTS OF AMERICA pertaining to Thomas Hacker.

21. The correspondence from Northwest Suburban Council of the BOY SCOUTS OF AMERICA to BOY SCOUTS OF AMERICA indicated that Mr. Hacker was arrested on charges of taking indecent liberties with a child.

22. The correspondence from Northwest Suburban Council of the Boy Scouts of America enclosed a newspaper clipping outlining the charges against Thomas Hacker.
23. The correspondence also indicated that the Council learned that Mr. Hacker was active in Scouting in Central Indiana.
24. On November 2, 1971, Paul Ernst acknowledged receipt of the letter from Northwest Suburban Council of the BOY SCOUTS OF AMERICA and wrote back to the Council.
25. In his November 2, 1971 letter, Paul Ernst indicated that “under no circumstances do we want [Mr. Hacker] registered in Scouting.”
26. BOY SCOUTS OF AMERICA was, again, warned of the dangers posed to children by Thomas Hacker via the October 27, 1971 letter from the Northwest Suburban Council of the BOY SCOUTS OF AMERICA.
27. Despite being an “Ineligible Volunteer” since approximately February of 1970, Thomas Hacker was permitted to register and participate in Scouting with Defendant CHICAGO AREA COUNCIL.
28. Mr. Hacker became active in the CHICAGO AREA COUNCIL beginning in approximately 1983 or 1984.
29. Defendants CHICAGO AREA COUNCIL did not conduct a background check on Mr. Hacker.
30. If Defendant CHICAGO AREA COUNCIL had conducted a background check upon Hacker’s registration, the background check would have confirmed a felony conviction in approximately 1970 on charges involving sexual abuse and/or assault.
31. Beginning in 1983 or 1984, Mr. Hacker served as Committee Chairman and Scoutmaster with the CHICAGO AREA COUNCIL of the BOY SCOUTS OF AMERICA.

32. Through his position with the CHICAGO AREA COUNCIL, Mr. Hacker gained access to many young boys and began molesting children within the Council.

33. Mr. Hacker met and gained access to Plaintiff John Doe through Hacker's role as Scoutmaster with the CHICAGO AREA COUNCIL.

34. Defendant Hacker was, at various times material hereto, an employee, servant, volunteer, Scoutmaster, agent and/or apparent agent of Defendant CHICAGO AREA COUNCIL.

35. Mr. Hacker sexually assaulted Plaintiff John Doe on repeated occasions beginning in approximately 1985.

36. In February of 1988, Thomas Hacker was arrested and charged with five counts of aggravated criminal sexual assault against three scouts.

37. On April 15, 1988, The Illinois Department of Children and Family Services informed the BOY SCOUTS OF AMERICA that at least 34 individuals were victims of child abuse at the hands of Thomas Hacker.

38. Prior to Mr. Hacker's 1988 arrest, and prior to his 1985 abuse of Plaintiff, BSA and its local councils, including the CHICAGO AREA COUNCIL, knew for decades that sexual predators of boys had infiltrated scouting.

39. The CHICAGO AREA COUNCIL knew or should have known the danger that pedophiles presented to boy scouts and either knew or should have known the danger that Hacker presented, but instead CHICAGO AREA COUNCIL ignored that danger and permitted Hacker and other pedophiles in scouting to prey upon young boys, including Plaintiff.

40. The CHICAGO AREA COUNCIL knew that BOY SCOUTS OF AMERICA maintained files known as the "Ineligible Volunteer Files."

41. The CHICAGO AREA COUNCIL likewise knew that BOY SCOUTS OF AMERICA maintained the Ineligible Volunteer Files for the purpose of documenting child-abusers and keeping said abusers out of Scouting.

42. The CHICAGO AREA COUNCIL likewise knew that BOY SCOUTS OF AMERICA had a problem preventing pedophiles and predators from infiltrating the ranks of the Scouts.

43. For those reasons, the CHICAGO AREA COUNCIL knew that any potential employees, volunteers, adult leaders, agents, or Scoutmasters needed to be cross-checked and vetted by BOY SCOUTS OF AMERICA to determine whether or not they were qualified to work with youth.

44. BSA's own internal "Ineligible Volunteer Files" records it collected and maintained in secrecy for seventy years, reveal that Scouting is a pedophile "magnet" and that removed pedophiles were often able to re-enter Scouting in other locations. These files were maintained concerning paid executives as well as "volunteers."

43. CHICAGO AREA COUNCIL was aware that Scouting attracted pedophiles and that the distinct characteristics of Scouting render scouts particularly susceptible to pedophiles.

44. BSA's "Ineligible Volunteer Files" contained a file for Mr. Hacker opened in 1970, yet the CHICAGO AREA COUNCIL permitted Mr. Hacker to register as a volunteer and/or employee in the 1980s and, thereafter, participate as an active leader in Scouting.

42. CHICAGO AREA COUNCIL knew or should have known that Scouting attracts pedophiles, in part, because: a) Scouting provides the pedophile access to boys alone and away from their parents in secluded settings like camp-outs and overnight hikes; b) Scouting provides opportunities for the pedophile to seduce a boy by getting him in situations where the boy has to

change clothing or spend the night with him; c) the pedophile scout leader can, depending on the pedophile's age preference, volunteer for and be sure to have access only to boys of a certain age; d) CHICAGO AREA COUNCIL and BSA conditions boys to the concept of strict obedience to the Scout Leader, a bonding mechanism that pedophiles crave; e) CHICAGO AREA COUNCIL and BSA promotes the idea of secret ceremonies, rituals and loyalty oaths, all of which help facilitate the pedophile's efforts to keep his victims silent and compliant; f) At the time of the abuse, neither CHICAGO AREA COUNCIL nor BSA conducted a criminal background check on Hacker.

44. At all times, Hacker was under certain direction, supervision and control of Defendant CHICAGO AREA COUNCIL and was otherwise its employee, servant, volunteer, Scoutmaster, agent and/or apparent agent.

45. At all times, co-defendant CHICAGO AREA COUNCIL was under the direction, supervision, and control of Defendant BSA and was otherwise its servant, agent and/or apparent agent.

46. Hacker's work and duties for defendant CHICAGO AREA COUNCIL included duties and activities in Cook County, Illinois.

47. Prior to 1985, CHICAGO AREA COUNCIL ignored repeated warnings that Hacker was a pedophile.

48. Using the power, authority, and trust of his positions as a CHICAGO AREA COUNCIL leader and availing himself of Defendants' representations to parents and scouts that the BSA and the CHICAGO AREA COUNCIL was a moral and safe place for boys, Hacker enticed, induced, directed, coerced, and forced Plaintiff to engage in deviant sexual acts with him during the year 1985.

49. Based upon both CHICAGO AREA COUNCIL and BSA's knowledge of previous incidents involving pedophiles and its knowledge and information regarding pedophiles within its organizations, both CHICAGO AREA COUNCIL and BSA could reasonably foresee future incidents involving pedophile Scout leaders, volunteers, employees, agents, and/or apparent agents, including Hacker.

50. Defendant CHICAGO AREA COUNCIL owed a duty to Plaintiff to prevent known child molesters from serving as Scout leaders with access to children.

51. Defendant, CHICAGO AREA COUNCIL was negligent in the manner that it screened, supervised, retained as a volunteer, and allowed Hacker to register as an adult volunteer, when CHICAGO AREA COUNCIL knew or should have known that Hacker posed a threat of sexual abuse to children, and was negligent in one or more of the following ways:

- a. Allowed Hacker to routinely be alone with Plaintiff for hours;
- b. Failed to conduct a background check on Hacker when he registered with the CHICAGO AREA COUNCIL;
- c. Failed to timely adopt policies and procedures to protect children;
- d. Failed to advise parents of statistical data available to BSA and the CHICAGO AREA COUNCIL from the Ineligible Volunteer Files;
- e. Failed to advise parents that the Ineligible Volunteer File system of ejection of paid executives and volunteers, as the primary method of protecting Scouts from pedophiles, was ineffective;
- f. Carelessly or negligently maintained, reviewed, and updated the Ineligible Volunteer Files;
- g. Carelessly or negligently warned and/or failed to warn parents of information regarding adult Scoutmasters and their propensity to engage in inappropriate behavior with Scouts;
- h. Carelessly and/or negligently failed to communicate information regarding

Scoutmasters, employees, volunteers, agents, and/or apparent agents to its operative branches throughout the United States;

- i. Allowed Hacker to register with the CHICAGO AREA COUNCIL despite his history of child abuse and despite previously classifying him as an ineligible volunteer;
- j. Allowed Hacker to continue in his position as Scoutmaster;
- k. Allowed Hacker to continue as a Scouting volunteer;
- l. Failed to cross-check and vet Thomas Hacker through the BOY SCOUTS OF AMERICA;
- m. Failed to cross-check Thomas Hacker's name with the Ineligible Volunteer Files;
- n. Violated its own policies or the policies of the BOY SCOUTS OF AMERICA pertaining to the vetting of volunteers and/or scout leaders;
- o. Failed to collect the necessary information from Thomas Hacker, upon his registration with the CHICAGO AREA COUNCIL, to properly cross-check Hacker with the BOY SCOUTS OF AMERICA and its Ineligible Volunteer files;
- p. Was otherwise careless and/or negligent.

52. As a direct and proximate result of the aforementioned actions by the Defendant, Plaintiff has suffered permanent injuries of a personal and pecuniary nature, and has been psychologically damaged and continues to be damaged psychologically and to experience mental anguish, humiliation and emotional and physical pain, suffering and distress.

Further, as a result of the aforementioned sexual abuse and breach of trust, Plaintiff has suffered and will continue to suffer physical and emotional pain and dysfunction, and both economic and non-economic damages in an amount to be proved at trial.

53. Because this abuse occurred when Plaintiff was approximately 10 years old, Plaintiff suppressed the memories of this abuse.

54. It was not until October of 2012 – when the release of Ineligible Volunteer Files became widely publicized – that Plaintiff discovered that he was repressing the memories of his abuse, discovered his injuries, and became aware of his cause of action against Defendants.

55. **Fraudulent misrepresentation, concealment, and non-disclosure of predatory scout leaders, including Thomas Hacker:** Both BSA and the CHICAGO AREA COUNCIL, through its employees, scout executives, scout leaders, agents, apparent agents, officials, attorneys, and members of the Registration Department, had actual knowledge that Thomas Hacker was a predator and pedophile, beginning in approximately March of 1970, through and including the present.

56. Both BSA and CHICAGO AREA COUNCIL, through its employees, scout executives, scout leaders, agents, apparent agents, officials, attorneys, and members of the Registration Department, had actual or constructive knowledge that Thomas Hacker sexually molested Plaintiff and other children in the mid-1980s.

57. Armed with the above knowledge, both BSA and CHICAGO AREA COUNCIL hid the information from its scouts and parents of scouts, including Plaintiff and his mother, from the time of the assaults up to and including the present.

58. After BSA and CHICAGO AREA COUNCIL learned that Thomas Hacker molested CHICAGO AREA COUNCIL scouts, both BSA and CHICAGO AREA COUNCIL concealed the fact, in the 1970s, Thomas Hacker had been identified as a child molester and/or abuser but was still allowed him to register with the CHICAGO AREA COUNCIL.

59. Ken Walters, a director of finance and support services for CHICAGO AREA COUNCIL, actively concealed the fact that Thomas Hacker's name was found within the Ineligible Volunteer Files long before the assaults that began in the mid-1980s.

60. Ken Walters was quoted in the Chicago tribune as stating that “Obviously he’s (referring to Thomas Hacker) not on that system...it would have come up.”

61. Likewise, Barclay Bollas, a spokesman for the BSA, actively concealed the fact that Thomas Hacker’s name was found within the Ineligible Volunteer Files long before the assaults that began in the mid-1980s.

62. In response to an inquiry after Hacker’s arrest, as to whether Thomas Hacker was found within the Ineligible Volunteer Files, Barclay Bollas stated “we consider that list confidential.”

63. In each of the years between at least 1971 and the date of the filing of this complaint, the BOY SCOUTS OF AMERICA and CHICAGO AREA COUNCIL has misrepresented and under-reported the true nature and number of predatory and pedophile scout leaders that have served BOY SCOUTS OF AMERICA and its local councils.

64. Both BOY SCOUTS OF AMERICA and CHICAGO AREA COUNCIL has had and presently do have a financial incentive to misrepresent and hide the true nature and scope of this problem of predatory and pedophile leaders, more particularly described below.

65. For years, both BOY SCOUTS OF AMERICA and CHICAGO AREA COUNCIL have carefully protected the Ineligible Volunteer Files and repeatedly tried to prevent lawyers representing victims from obtaining and accessing those files.

66. Defendants BOY SCOUTS OF AMERICA and CHICAGO AREA COUNCIL actively misrepresented and concealed the fact that Thomas Hacker was a known pedophile at the time of his registration with the CHICAGO AREA COUNCIL.

67. If Defendants and their agents had not misrepresented or concealed the true nature of predatory and pedophile leaders involved in scouting and had not specifically concealed their

knowledge of Thomas Hacker, Plaintiff would have discovered earlier, and within the limitation period (whatever that may be held to in this case); and therefore would have filed his cause of action (a) before his 18th birthday; and (b) in less than 2 years after of his 18th birthday; or (c) earlier than he did without the aid of any applicable Discovery Rule.

68. Because of the Defendant CHICAGO AREA COUNCIL's misrepresentation and concealment, Plaintiff (a) was unaware of his claim when he turned 18; (b) did not know the CHICAGO AREA COUNCIL had done something wrong at any time, and because of the misrepresentation and concealment of the CHICAGO AREA COUNCIL, was otherwise not aware of his injury or the cause of his injury.

69. **Detrimental Reliance:** Before, during and after 1985, Plaintiff and his parents detrimentally relied on the false statements and non-disclosures of the CHICAGO AREA COUNCIL about predatory and pedophile leaders, including Thomas Hacker, serving the BOY SCOUTS OF AMERICA and CHICAGO AREA COUNCIL.

70. If the parents of Plaintiff were informed by Defendant prior to 1985 that the CHICAGO AREA COUNCIL knew or reasonably should have known at that time about pedophile leaders working or volunteering for and/or on behalf of the Defendant, they would not have permitted Plaintiff, their then minor son, to join or participate in the Scouting through the CHICAGO AREA COUNCIL.

71. **The CHICAGO AREA COUNCIL and the BOY SCOUTS OF AMERICA had a financial incentive to withhold facts about predatory and pedophile leaders:** If the either CHICAGO AREA COUNCIL or BOY SCOUTS OF AMERICA were to disclose the true extent of predatory pedophile leaders described above, collected in the Ineligible Volunteer Files, described above, the membership in both the CHICAGO AREA COUNCIL and the BOY

SCOUTS OF AMERICA would drop substantially and the fees collected from said membership would significantly diminish.

72. Similarly, given both CHICAGO AREA COUNCIL and BOY SCOUTS OF AMERICA specific knowledge that Thomas Hacker posed a threat to Scouts but was allowed to participate in Scouting, any disclosure of that information at the time of his 1988 arrest would likely have subjected both CHICAGO AREA COUNCIL and BOY SCOUTS OF AMERICA to substantial liability.

73. Accordingly, instead of disclosing said information and knowledge to parents, following Hacker's arrest, both CHICAGO AREA COUNCIL and BOY SCOUTS OF AMERICA concealed and hid the information.

74. At no time before prior to the disclosure of the Ineligible Volunteer Files in October of 2012, did Plaintiff know, nor reasonably should have known that he was injured in any way, or that he had been the victim of any wrongful conduct, on the part of Defendants CHICAGO AREA COUNCIL and BOY SCOUTS OF AMERICA.

75. **Equitable Estoppel:** First, as more particularly described above, the CHICAGO AREA COUNCIL misrepresented and concealed material facts about the true nature of predatory and pedophile leaders within the BOY SCOUTS OF AMERICA.

76. Second, the BOY SCOUTS OF AMERICA knew at the time the representations were made, and when the concealment occurred, that they were untrue.

77. Third, at no time did Plaintiff know that the representations made by the CHICAGO AREA COUNCIL were untrue.

78. Fourth, the CHICAGO AREA COUNCIL intended and expected the representation to be acted upon by Plaintiff, an abused person, and his parents and by other victims of sexual abuse by a Scout leader.

79. Fifth, Plaintiff and his parents reasonably relied upon the representations of the CHICAGO AREA COUNCIL in good faith and to their detriment.

80. Sixth, Plaintiff has been prejudiced by his reliance on the representations of the CHICAGO AREA COUNCIL and fraudulent misrepresentation of the CHICAGO AREA COUNCIL described above.

81. As a result, the CHICAGO AREA COUNCIL should be equitably estopped from asserting any statute of limitation defense.

WHEREFORE, Plaintiff JOHN DOE by and through Plaintiff's attorneys, HURLEY McKENNA & MERTZ, pray for damages against defendant CHICAGO AREA COUNCIL in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

HURLEY MCKENNA & MERTZ

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